

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

"JOHN DOE",

Plaintiff,

- against -

ST. FRANCIS PREPARATORY SCHOOL,  
FRANCISCAN BROTHERS OF BROOKLYN  
and BROTHER JOSEPH MUSSA,

Defendants.

Index No: 713985/2019

**SUMMONS**

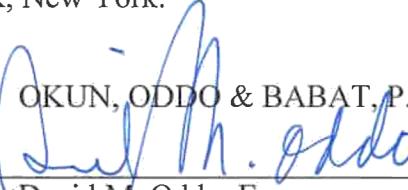
*To the above named defendants:*

**YOU ARE HEREBY SUMMONED** to answer in this action and to serve a copy of an answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff(s)' attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates Queens County as the place of trial.

The basis of the venue is based on the residence of one or more defendants which are located in the County of Queens, New York, New York.

Dated: October 10, 2019

By:   
OKUN, ODDO & BABAT, P.C.

David M. Oddo, Esq.  
Attorneys for Plaintiff  
8 West 38th Street, Suite 1002  
New York, New York 10018  
(212) 642-0950  
File: 11980

*Defendants' addresses:*

ST. FRANCIS PREPARATORY SCHOOL c/o PATRICK F. ADAMS, P.C., 3500 Sunrise Highway, Building 300, Great River, New York 11739

FRANCISCAN BROTHERS OF BROOKLYN c/o PATRICK F. ADAMS, P.C., 3500 Sunrise Highway, Building 300, Great River, New York 11739

BROTHER JOSEPH MUSSA, 135 Remsen Street, Brooklyn, NY 11201

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**VERIFIED COMPLAINT**

Plaintiff, "JOHN DOE", by his attorneys, OKUN, ODDO & BABAT, P.C., alleges on personal knowledge as to himself and on information and belief as to all other matters, as follows:

**NATURE OF THE ACTION**

1. This is an action to recover damages arising from defendant, Brother Joseph Mussa's sexual molestation of plaintiff, "JOHN DOE", when the plaintiff was approximately 14 years old, and continuing until he was approximately 15 years old.

2. Defendant Mussa was plaintiff's religion teacher employed by defendants, ST. FRANCIS PREPARATORY SCHOOL and FRANCISCAN BROTHERS OF BROOKLYN. Defendant Mussa engaged in explicit sexual behavior and lewd and lascivious conduct with the plaintiff on multiple occasions between 1981 and 1982 in Queens County, as well as in upstate New York, Hartford, Connecticut, Boston, Massachusetts and other locations.

3. The defendants, ST. FRANCIS PREPARATORY SCHOOL and FRANCISCAN BROTHERS OF BROOKLYN, who employed, supervised and/or directed defendant Mussa, failed to take steps to prevent Mussa from molesting children in his care. Instead, the defendants left a sexual predator in charge of school-age children and took no steps to protect young victims

on whom defendant Mussa preyed.

4. Upon information and belief, defendant Mussa allegedly molested and raped multiple children while he was a teacher and baseball coach at Holy Name of Jesus Catholic School, Brooklyn, New York, in the early to mid-1970s. Despite having knowledge of these allegations, the defendants, ST. FRANCIS PREPARATORY SCHOOL and FRANCISCAN BROTHERS OF BROOKLYN, thereafter employed defendant Mussa.

5. The defendants, ST. FRANCIS PREPARATORY SCHOOL and FRANCISCAN BROTHERS OF BROOKLYN, permitted and allowed defendant Mussa to travel with and supervise children under his care and stay at hotels, knowing or should have known, that he slept in the same bed as the children he was supervising.

6. Plaintiff now seeks damages from the defendants who are legally responsible for defendant Mussa's actions and who failed properly to supervise and/or direct defendant Mussa.

### **THE PARTIES**

7. Plaintiff, "JOHN DOE", is an individual who resides in the State of New York and County of Queens. At the time of the events complained of, he was a minor residing in Queens.

8. Defendant, BROTHER JOSEPH MUSSA is an individual who resides in the State of New York and County of Kings.

9. Defendant, FRANCISCAN BROTHERS OF BROOKLYN, is a New York not-for-profit corporation located in Queens County.

10. Defendant, ST. FRANCIS PREPARATORY SCHOOL, is an accredited Catholic High School in the County of Queens, and, at all times relevant herein, is operated by the defendant, FRANCISCAN BROTHERS OF BROOKLYN.

11. Throughout the relevant time period, one or more of the defendants were responsible for the hiring, retention, direction and supervision of defendant Mussa, in his role as a teacher, mentor and counselor for young boys.

### **FACTUAL BACKGROUND**

12. Defendant, FRANCISCAN BROTHERS OF BROOKLYN, at all times relevant herein, operates the ST. FRANCIS PREPATORY SCHOOL in Queens County, New York. Beginning at some point prior to 1981, and continuing until 1982, the school employed defendant Mussa as a religion teacher.

13. Defendant Mussa's duties and responsibilities included teaching, supervising, interacting with, mentoring and counseling minor boys.

14. Defendant Mussa developed an inappropriate relationship with the plaintiff, inducing him as a young child, to look up to him, and to place absolute trust and confidence in him. Defendant Mussa then abused that trust and confidence by sexually molesting the plaintiff.

15. From approximately 1981, when the plaintiff was approximately 14 years of age, to approximately 1982, when he was approximately 15 years of age, defendant Mussa repeatedly engaged in explicit sexual behavior and lewd and lascivious conduct with the plaintiff, including but not limited to fondling plaintiff's genitals and masturbating the plaintiff; forcing the plaintiff to fondle defendant Mussa's genitals and masturbate him; by performing oral sex on him; forcing plaintiff to perform oral sex on the defendant, Mussa.

16. Defendant Mussa repeatedly engaged in this explicit sexual behavior and lewd and lascivious conduct with the plaintiff in the State of New York, Queens County.

17. Defendant Mussa also repeatedly took the plaintiff outside of New York to engage in explicit sexual behavior and lewd and lascivious conduct with the plaintiff and did engage in explicit sexual behavior and lewd and lascivious conduct with the plaintiff in, among

other locations, the states of Massachusetts, Connecticut and Pennsylvania.

18. Between 1981 and 1982, defendant Mussa molested the plaintiff over 15 times.

19. Defendant Mussa was acting within the scope of his employment as a teacher and mentor in soliciting the plaintiff's trust, and in meeting with the plaintiff alone outside the supervision of other adults. Defendant Mussa abused the plaintiff's trust and used such meetings as opportunities to sexually assault and otherwise molest the plaintiff.

20. Defendant Mussa was acting within the scope of his employment as a teacher and mentor when he took the plaintiff to sporting events outside of the state. Defendant Mussa used these opportunities to sexually assault and otherwise molest the plaintiff.

21. The defendants hired and/or appointed defendant Mussa as a teacher, mentor and counselor for minor boys. By so hiring and/or appointing him, the defendants made certain representations about defendant Mussa's character, specifically that defendant Mussa was a role model for minor boys and/or an individual to whom minor boys could be safely entrusted. At the time they hired and/or appointed defendant Mussa, and made these representations about his character, the defendants knew, or should have known, of defendant Mussa's propensity to molest boys and should not have placed him in a position of trust and confidence with access to and authority over young boys.

22. The defendants retained, supervised and/or directed defendant Mussa in his role as teacher, mentor and counselor for minor boys in youth sports programs. By so retaining him, the defendants made certain representations about defendant Mussa's character, specifically that Mussa was a role model for minor boys and/or an individual to whom minor boys could be safely entrusted. During the time that they retained defendant Mussa, and made these representations about his character, the defendants knew, or should have known, of Mussa's propensity to molest boys, and, in particular, of his inappropriate relationship with the plaintiff.

Rather than taking steps to prevent defendant Mussa from sexually assaulting children, including removing him from a position of trust and confidence with access to, and authority over, young boys, the defendants instead turned a blind eye while the defendant Mussa repeatedly molested the plaintiff over a one-year period. The defendants failed to direct and/or supervise defendant Mussa in a manner to prevent, or detect defendant Mussa's sexual abuse of minor boys, including the plaintiff.

23. As a result of defendant Mussa's sexual abuse, the plaintiff suffered physical, psychological and emotional injury. The plaintiff experienced feelings of guilt, loss of self-respect, shame, embarrassment, sadness, anger, depression, anxiety, alcohol abuse, and confusion resulting from defendant Mussa's abuse. The plaintiff developed lifelong problems with authority, with sex, with establishing, developing, maintaining, and enjoying meaningful relationships, and issues with being touched as a result of defendant Mussa's sexual abuse. The plaintiff suffered from nightmares, panic attacks and flashbacks.

### **CAUSES OF ACTION**

#### **FIRST CAUSE OF ACTION:** **BATTERY AGAINST ALL DEFENDANTS**

24. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

25. On numerous occasions, from 1981 to 1982, defendant Mussa intentionally touched the plaintiff's body when he engaged in the sexual behavior and lewd and lascivious conduct described above. Such bodily contact was offensive and was without consent, because the plaintiff was a minor and was incapable of consenting to these acts.

26. At the time defendant Mussa touched the plaintiff's body, he was employed and/or appointed by some or all of the defendants as the plaintiff's teacher, mentor and counselor. It was part of defendant Mussa's job, as role model, to gain the plaintiff's trust.

Defendant Mussa used his position, and the representations made by the defendants about his character that accompanied that position to gain the plaintiff's trust and confidence to create opportunities to be alone with and touch the plaintiff.

27. The defendants are liable for defendant Mussa's offensive bodily contact, including psychological and emotional injury as described above.

28. By reason of the foregoing, the defendants are liable to the plaintiff for battery in an amount which exceeds the jurisdictional limits of all lower Courts which may have jurisdiction of this matter.

**SECOND CAUSE OF ACTION:**  
**ASSAULT AGAINST ALL DEFENDANTS**

29. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

30. On numerous occasions, from 1981 to 1982, defendant Mussa intentionally touched the plaintiff's body when he engaged in the sexual behavior and lewd and lascivious conduct described above. Such bodily contact placed the plaintiff in imminent apprehension of harmful contact, including apprehension of further sexual contact.

31. At the time defendant Mussa offensively touched the plaintiff and threatened further touching, he was employed and/or appointed by some or all of the defendants as the plaintiff's religion teacher, mentor and counselor. It was part of defendant Mussa's job, as role model, to gain the plaintiff's trust. Defendant Mussa used his position, and the representations made by the defendants about his character that accompanied that position to gain the plaintiff's trust and confidence to create opportunities to be alone with and touch the plaintiff.

32. The defendants are liable for defendant Mussa's conduct under the doctrine of *respondeat superior*.

33. The defendants are liable for defendant Mussa's offensive bodily contact, including psychological and emotional injury as described above.

34. By reason of the foregoing, the defendants are liable to the plaintiff for assault in an amount which exceeds the jurisdictional limits of all lower Courts which may have jurisdiction of this matter.

**THIRD CAUSE OF ACTION:**  
**NEGLIGENT HIRING AGAINST ST. FRANCIS PREPARATORY**  
**SCHOOL and FRANCISCAN BROTHERS OF BROOKLYN**

35. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

36. Defendant Mussa was hired as a religion teacher by the defendants.

37. The positions for which defendant Mussa was hired required him to work closely with, mentor and counsel young boys.

38. The defendants were negligent in hiring defendant Mussa because they knew, or if they did not know, they should have known of his propensity to develop inappropriate relationships with boys in his charge and to engage in sexual behavior and lewd and lascivious conduct with such boys.

39. The defendants, knew or should have known, that in the early to mid 1970s, defendant Mussa allegedly molested and raped multiple students while a teacher and baseball coach at Holy Name of Jesus Catholic School, Brooklyn, New York.

40. Despite the knowledge of defendant Mussa's alleged prior acts, the defendants still hired defendant Mussa.

41. At some point after 1976, the defendant, FRANCISCAN BROTHERS OF BROOKLYN, relocated defendant Mussa for the sole purpose of concealing the rape and sexual molestation of children, including the plaintiff herein.

42. The defendants intentionally deceived the students and parents of the St. Francis Preparatory Community and facilitated and enabled defendant Mussa to continue to sexually molest children elsewhere.

43. The defendants demonstrated a reckless disregard for the safety and well-being of minor children by allowing defendant Mussa to be employed as a teacher with a known pattern of deviant behavior.

44. Defendant Mussa would not and could not have been in a position to sexually abuse the plaintiff had he not been hired by the defendants to teach, mentor and counsel boys in the youth hockey program, including the plaintiff.

45. The plaintiff suffered injury as a result of defendant Mussa's inappropriate sexual behavior and lewd and lascivious conduct, including psychological and emotional injury as described above.

46. By reason of the foregoing, the defendants are liable to the plaintiff for their negligent hiring of defendant Mussa in an amount which exceeds the jurisdictional limits of all lower Courts which may have jurisdiction of this matter.

**FOURTH CAUSE OF ACTION:**  
**NEGLIGENT RETENTION, SUPERVISION AND/OR**  
**DIRECTION AGAINST DEFENDANTS, ST. FRANCIS PREPARATORY**  
**SCHOOL and FRANCISCAN BROTHERS OF BROOKLYN**

47. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

48. At all times while defendant Mussa was employed and/or appointed by the various defendants, he was supervised by, under the direction of, and/or answerable to, the various defendants and/or their agents and employees.

49. The defendants were negligent in their direction and/or supervision of defendant Mussa in that they knew, or if they did not know, they should have known, of his propensity to

develop inappropriate relationships with boys under his charge and to engage in sexual behavior and lewd and lascivious conduct with such boys, yet they failed to take steps to prevent such conduct from occurring.

50. The plaintiff advised the principal at the time, Brother Richard McCann of defendant Mussa's inappropriate, lewd and lascivious conduct with him.

51. Brother Richard McCann ignored the plaintiff and actually helped cover up the abuse by eventually transferring defendant Mussa out of the school.

52. The defendants were negligent in their retention of defendant Mussa in that they knew, or if they did not know, they should have known, of his propensity to develop inappropriate relationships with boys under his charge and to engage in sexual behavior and lewd and lascivious conduct with such boys, yet they retained him in his position as teacher and counselor to such boys and thus left him in a position to continue such behavior.

53. The defendants were further negligent in their retention, supervision and/or direction of defendant Mussa, in that he sexually molested the plaintiff on numerous occasions over a one year period. The defendants failed to take reasonable steps to prevent such events from occurring on and off their premises.

54. Defendant Mussa would not and could not have been in a position to sexually abuse the plaintiff had he not been negligently retained, supervised and/or directed by the defendants as a teacher, mentor and counselor to the students at St. Francis Preparatory School including the plaintiff.

55. The plaintiff suffered injury as a result of defendant Mussa's inappropriate sexual behavior and lewd and lascivious conduct, including psychological and emotional injury as described above.

56. By reason of the foregoing, the defendants are liable to the plaintiff for their negligent retention, supervision and/or direction of defendant Mussa in an amount which exceeds the jurisdictional limits of all lower Courts which may have jurisdiction of this matter.

**FIFTH CAUSE OF ACTION:**  
**INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**  
**AS TO ALL DEFENDANTS**

57. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

58. The sexual abuse of the plaintiff when he was a minor was extreme and outrageous conduct, beyond all possible bounds of decency, atrocious and intolerable in a civilized community.

59. The defendants knew or intentionally disregarded the substantial probability that defendant Mussa's conduct would cause severe emotional distress to the plaintiff.

60. The plaintiff suffered severe emotional distress including psychological and emotional injury as described above. This distress was caused by defendant Mussa's sexual abuse of the plaintiff.

61. At the time defendant Mussa molested the plaintiff, which defendant Mussa knew would cause, or intentionally disregarded the substantial probability that it would cause, severe emotional distress, defendant Mussa was employed as the plaintiff's teacher, mentor and counselor by some or all of the defendants. It was part of defendant Mussa's job as a role model to gain the plaintiff's trust. Defendant Mussa used his position and the representations made by the defendants about his character that accompanied that position of authority to gain the plaintiff's trust and confidence, and to create opportunities to be alone with and touch the plaintiff.

62. The defendants are liable for defendant Mussa's conduct under the doctrine of *respondeat superior*.

63. By reason of the foregoing, the defendants are liable to the plaintiff for intentional infliction of emotional distress in an amount which exceeds the jurisdictional limits of all lower Courts which may have jurisdiction of this matter.

**SIXTH CAUSE OF ACTION:**  
**NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**  
**AS TO ALL DEFENDANTS**

64. Plaintiff repeats and realleges by reference all preceding paragraphs of this Complaint into this paragraph.

65. The defendants owed a duty to the plaintiff because he was a minor entrusted to their care, and because the defendants, through their hiring and/or appointment, and their retention of defendant Mussa, represented that defendant Mussa was a role model for minor boys and an individual to whom minor boys could be safely entrusted.

66. The defendants breached their duty to the plaintiff by negligently hiring, appointing, retaining, supervising and/or directing defendant Mussa, and in failing to protect the plaintiff from a sexual predator.

67. The plaintiff suffered severe emotional distress including psychological and emotional injury as described above. This distress was a direct result of the defendants' breach of their duty.

68. In addition to their own direct liability for negligently inflicting emotional distress on the plaintiff, the defendants are also liable for defendant Mussa's negligent infliction of emotional distress under the doctrine of *respondeat superior*. At the time defendant Mussa breached his duty to the plaintiff, he was employed as the plaintiff's teacher, mentor and counselor by some or all of the defendants. It was part of defendant Mussa's job as role model to

gain the plaintiff's trust. Defendant Mussa used his position of authority, and the representations made by the defendants about his character that accompanied that position, to gain the plaintiff's trust and confidence and to create opportunities to be alone with and sexually abuse the plaintiff.

69. By reason of the foregoing, the defendants are liable to the plaintiff for negligent infliction of emotional distress in an amount which exceeds the jurisdictional limits of all lower Courts which may have jurisdiction of this matter.

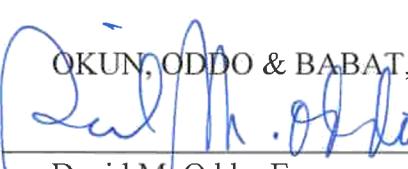
**JURY DEMAND**

70. Plaintiff demands a trial by jury of all issues triable by jury in this action.

WHEREFORE, plaintiff prays for judgment as follows:

- A. Awarding compensatory damages in an amount sufficient to compensate plaintiff for his injuries;
- B. Awarding plaintiff costs, disbursements and attorneys fees to the extent available by law; and
- C. Awarding such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
October 10, 2019

By:   
OKUN, ODDO & BABAT, P.C.  
David M. Oddo, Esq.  
Attorneys for Plaintiff  
8 West 38<sup>th</sup> Street, Suite 1002  
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File: 11980

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

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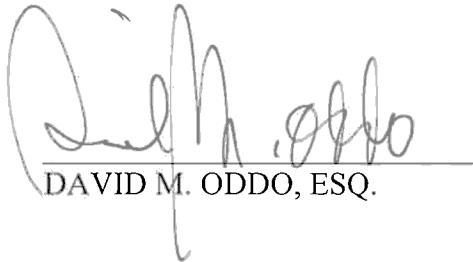
**VERIFICATION**

STATE OF NEW YORK )  
: ss.:  
COUNTY OF NEW YORK )

The undersigned, an attorney admitted to practice in the Courts of the State of New York, hereby affirms under the penalties of perjury as follows:

That affirmant is the attorney for the plaintiff in the within action; that affirmant has read the foregoing COMPLAINT and knows the contents thereof; that the same is true to affirmant's knowledge, except the matters stated to be alleged on information and belief, and that those matters affirmant believes to be true. The reason this verification is made by affirmant and not by the plaintiff is that the plaintiff does not reside in the County in which affirmant maintains an office. The grounds of belief as to all matters not stated upon affirmant's knowledge are documents, correspondence and records maintained in affirmant's files and conversations and conferences had with the plaintiff.

Dated: New York, New York  
October 10, 2019



DAVID M. ODDO, ESQ.

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**SUMMONS AND VERIFIED COMPLAINT**

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8 West 38<sup>th</sup> Street, Suite 1002  
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(212) 642-0950